



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION IX  
75 Hawthorne Street  
San Francisco, CA 94105-3901

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MAR 10 2008

ENVIRONMENTAL PROTECTION

March 6, 2008

Nevada  
Environmental Protection

MAR 10 2008

BAPC/BAQP

Matthew DeBurle  
Supervisor, Permitting Branch  
Nevada Bureau of Air Pollution Control  
901 S. Stewart St., Suite 4001  
Carson City, Nevada 89701

Dear Mr. DeBurle:

Thank you for the opportunity to review the Bureau of Air Pollution Control's ("BAPC") proposed Operating Permit to Construct for the Toquop Energy Project, a 750 MW coal-fired power plant to be located near Mesquite, NV in Lincoln County.

We have enclosed our comments. Please contact Roger Kohn at (415) 972-3973 or [kohn.roger@epa.gov](mailto:kohn.roger@epa.gov) if you have any questions concerning our comments.

Sincerely,

Gerardo C. Rios  
Chief, Permits Office  
Air Division

Enclosure

**EPA Region 9 Comments  
BAPC Draft Operating Permit to Construct  
Toquop Energy Project**

**MAR 10 2008**

**BAPC/BAQP**

1. During the public comment period for EPA's proposed PSD permit for the Desert Rock Energy Facility, we received data from Texas Genco's W.A. Parrish facility in Texas. That data indicates that a NO<sub>x</sub> emission limit lower than BAPC's proposed BACT limit of 0.06 lb/MMBtu (24-hour average) may be achievable. EPA recommends that BAPC evaluate this data and determine if a lower NO<sub>x</sub> BACT emission limit is achievable at the Toquop Energy plant.
2. The BACT limits in the draft permit do not include short-term lb/hr emission limits for PM, PM<sub>10</sub>, NO<sub>x</sub>, CO, and SO<sub>2</sub>. (There are such limits in the permit but NAC 445B.305, which is not in the SIP, is cited as the authority, not BACT.) BACT should also include short-term lb/hr limits to ensure that the BACT limits are practically enforceable and so that appropriate limits apply at lower loads during startup and shutdown. Such short term lb/hr limits would also make the necessary source tests more practical, and reinforce the source's obligation to operate its control devices properly at all times. In addition, the NO<sub>x</sub>, CO, SO<sub>2</sub>, PM and PM<sub>10</sub> lb/hr limits were used as modeling inputs by the applicant, and therefore should be part of the BACT determinations.
3. BAPC's Class I Application Review document states:

"It is BAPC's position that BACT for SO<sub>2</sub> emissions from a PC Boiler located in the western United States is dry scrubbing. SPRC's proposed use of wet scrubbing to control SO<sub>2</sub> emissions from a PC Boiler is above and beyond BACT technology, and may, more appropriately, be considered LAER technology."

EPA would like to clarify that there is no difference between a LAER emission limit and the lowest emission rate in step one of a top-down BACT analysis. BACT differs from LAER in that energy, environmental, and economic impacts may be taken into account and used to justify the elimination of the LAER emission rate(s). Since the applicant and BAPC have chosen the most stringent emission limit from the top-down analysis, that limit is BACT (and would also be LAER if the project were located in an SO<sub>2</sub> nonattainment area). BAPC should revise its statement on SO<sub>2</sub> BACT for the PC boilers in the Application Review document.
4. BAPC's Application Review document does not identify New Source Performance Standard (NSPS) Subpart OOO as an applicable requirement in the NSPS discussion on page 22. Toquop Energy's application identifies Subpart OOO as an applicable requirement for the ball mill, belt conveyors, and storage bins in its limestone material handling activities as NSPS affected facilities (page 3-15 of its July 2007 application). Although BACT limits cannot be less stringent than the applicable NSPS, BAPC is not obligated to include NSPS requirements in the PSD permit. But since other NSPS requirements have been incorporated and it appears that BAPC's intent is to

include all NSPS requirements at this stage, BAPC may want to include the Subpart OOO requirements for consistency.

5. BAPC should consider adding a condition requiring the permittee to submit an Acid Rain application. For new units, an initial Acid Rain permit application must be submitted to the Title V permitting authority 24 months before the date the unit commences operation (40 C.F.R. 72.30(b)(2)(ii)). Since this is well before the deadline to submit a Title V application (within 12 months of commencing operation), BAPC and the applicant may find it useful to have this requirement clearly identified in the pre-construction permit.
6. EPA has determined that this PSD permitting action for Toquop Energy triggers an evaluation of EPA's obligations under Section 7 of the Endangered Species Act (ESA), 16 U.S.C. § 1536, and its implementing regulations at 50 CFR Part 402. Since EPA has delegated its PSD authority to BAPC, the PSD permit that BAPC will issue to Toquop Energy is considered a federal action, and cannot be issued until EPA has fulfilled its obligations under ESA Section 7. EPA is currently evaluating whether initiation of consultation is required for this action. If EPA determines that EPA's action (i.e., permit issuance) may affect a listed species, or result in the destruction or adverse modification of designated critical habitat (or affect a species proposed for listing or habitat proposed to be designated as critical) EPA will consult (or confer) with the appropriate Service, e.g., the U.S. Fish and Wildlife Service (FWS). The Bureau of Land Management (BLM) is the lead agency for preparation of the Toquop Energy EIS, and BLM submitted a Biological Assessment for this project to FWS in September 2007. BLM requested initiation of formal consultation for the desert tortoise and concurrence from FWS on a "not likely to adversely affect" conclusion regarding the southwestern willow flycatcher, Yuma clapper rail, Virgin River chub, and woundfin. In January, 2008, FWS requested more information from BLM. EPA is currently analyzing the information gathered as part of the BLM process, and we are in the process of determining whether we need additional information. We shall keep you informed as we determine our obligations under ESA Section 7.